

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/697,213	JIMENEZ ET AL.	
	Examiner Laura C. Guidotti	Art Unit 1744	

-- **The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to 19 December 2005.
2.  The allowed claim(s) is/are 45,47-49,77 and 79-87.
3.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All    b)  Some\*    c)  None    of the:
    1.  Certified copies of the priority documents have been received.
    2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.
  - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1.  Notice of References Cited (PTO-892)
2.  Notice of Draftperson's Patent Drawing Review (PTO-948)
3.  Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5.  Notice of Informal Patent Application (PTO-152)
6.  Interview Summary (PTO-413),  
Paper No./Mail Date 12282005.
7.  Examiner's Amendment/Comment
8.  Examiner's Statement of Reasons for Allowance
9.  Other \_\_\_\_\_.

### **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Harris Wolin on 28 December 2005.

The application has been amended as follows:

In the claims:

Cancel claims 2-7, 9-13, 15-38, 50-53, 55-57, 59-61, 64-66, 76, 78

Claim 45 Line 9, before the word "opposite" please insert - - directly - -

Claim 85 Line 7, before the word "opposite" please insert - - directly - -

The following is an examiner's statement of reasons for allowance:

None of the prior art of record includes a toothbrush including a head and a mechanical vibratory device, wherein the head comprises a first surface, a first cleaning element extending from the first surface that is non-movable relative to the head, a second cleaning element extending from the first surface that is non-movable relative to the head, a plurality of movable elastomeric wipers disposed between the first and second cleaning elements, each of the movable elastomeric wipers being movable relative to the cleaning head within a discontinuity in the head *directly opposite* each movable elastomeric wiper. Also, none of the prior art of record includes a toothbrush

Art Unit: 1744

having a handle, a head connected to the handle having a first surface and a second surface, a mechanical vibratory device, wherein the head comprises a first cleaning element extending from the first surface that is non-movable relative to the head, a second cleaning element extending from the first surface that is non-movable relative to the head, a plurality of third cleaning elements disposed between the first and second cleaning elements and being movable relative to the head, and a discontinuity in the head *directly* opposite at least one of the plurality of third cleaning elements to allow for movement of the at least one of the plurality of third cleaning elements relative to the head.

As mentioned previously, USPN 5,651,158 (or Halm '158) to Halm discloses a toothbrush having first, second, and third cleaning elements, wherein the third cleaning elements are disposed between the first and second cleaning elements, and Halm displays discontinuities of the head on an opposite surface of the third cleaning elements (unlabeled, best shown in Figure 4D), however the discontinuities are not directly opposite a third cleaning element. The Applicant clearly displays in Figure 14 that there is a discontinuity in the surface of the head directly opposite the third cleaning element (or wiper).

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C. Guidotti whose telephone number is (571) 272-1272. The examiner can normally be reached on Monday-Thursday, 7:30am - 5pm, alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571) 272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*LCG*  
LCG  
28 December 2005

*R. Crispino*  
RICHARD CRISPINO  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700